EUROPEAN PARLIAMENT

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Committee on Civil Liberties, Justice and Home Affairs

2006/0135(CNS)

13.2.2008

AMENDMENTS
28 - 33

Draft report
Evelyne Gebhardt
(PE400.282v01-00)

on the proposal for a Council regulation amending regulation (EC) No 2201/2003 as regards jurisdiction and introducing rules concerning applicable law in matrimonial matters

Proposal for a regulation – amending act
(COM(2006)0399 – C6-0305/2006 – 2006/0135(CNS))

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Amendment 28
Panayiotis Demetriou

Proposal for a regulation – amending act
Article 1 – point 1 a (new)
Regulation (EC) No 2201/2003
Article 2 – point 11 a (new)

Text proposed by the Commission	*Amendment*
	(1a) In Article 2, the following point shall be inserted:
	"11a. the term 'habitual residence' shall mean a person's place of ordinary abode."

Or. en

Justification

A definition of the term habitual residence should be provided so that to avoid as much as possible arbitrary interpretations. The court, of course, has to examine all relevant facts before it applies the definition.

Amendment 29
Panayiotis Demetriou

Proposal for a regulation – amending act
Article 1 – point 2
Regulation (EC) No 2201/2003
Article 3a – paragraph 1 – point c a (new)

Text proposed by the Commission	*Amendment*
	(ca) their marriage took place in that Member State.

Or. en

Justification

The choice by the parties of a country to celebrate their marriage should be reasonably

presumed as implying possible acceptance of the jurisdiction of that country as well.

Amendment 30
Panayiotis Demetriou

Proposal for a regulation – amending act
Article 1 – point 7
Regulation (EC) No 2201/2003
Article 20a – paragraph 1 – point d a (new)

Text proposed by the Commission	*Amendment*
	(da) the law of the State in which the marriage took place.

Or. en

Justification

The choice by the parties of a country to celebrate their marriage should be reasonably presumed as implying possible acceptance of the law of that country as well.

Amendment 31
Antonio Masip Hidalgo

Proposal for a regulation – amending act
Article 1 – point 7
Regulation (EC) No 2201/2003
Article 20a – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	2a. Should the law indicated pursuant to the first paragraph of this article not recognise separation or divorce or do so in a form that is discriminatory as regards one of the spouses, the lex fori shall apply.

Or. es

Justification

This amendment is intended to deal with the problems encountered by certain women from third countries who wish to obtain a separation or divorce in a Member State. The interest of the individual in obtaining a separation or divorce as an expression of personal autonomy should have priority over the application of national law. In such cases, the application of that national law tends to be an obstacle to certain persons resident in a Member State who seek a separation or divorce.

Amendment 32
Rareş-Lucian Niculescu

Proposal for a regulation – amending act
Article 1 – point 7
Regulation (EC) No 2201/2003
Article 20a a (new)

Text proposed by the Commission	*Amendment*
	Article 20aa
	Confirmation of the existence of consent by the parties
	(1) The court seized to judge the case shall confirm, in the first place, the existence of consent by the parties in relation to the judgment of the affair, pursuant to the options laid down in the agreement attributing competence, i.e. the agreement to designate the law applicable, and shall ensure that the parties are fully aware of the legal consequences of the choices made.
	(2) If the parties maintain their consent, the court shall proceed to judge the case.
	(3) If the parties do not maintain their consent to the initial agreement but, instead, reach a new agreement, the court shall take note of that agreement's existence.

Or. ro

Justification

Consent needs to be complete and must be expressed in full awareness of the circumstances. The aim of this amendment is to introduce safeguard measures in order to avoid the interests of one party being damaged and ensure respect for the right of the parties to have sufficient information to enable them to decide and act of their free will.

Amendment 33
Antonio Masip Hidalgo

Proposal for a regulation – amending act
Article 1 – point 7
Regulation (EC) No 2201/2003
Article 20b – subparagraph 1 a (new)

Text proposed by the Commission	*Amendment*
	Should the law indicated pursuant to the first paragraph of this article not recognise separation or divorce or do so in a form that is discriminatory as regards one of the spouses, the lex fori shall apply

Or. es

Justification

Should the law indicated pursuant to the first paragraph of this article not recognise separation or divorce or do so in a form that is discriminatory as regards one of the spouses, the lex fori shall apply.